IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19..01..2007

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THE HONOURABLE MR. JUSTICE K. CHANDRU

Writ Petition No.41191 of 2002

1. D. Unguswamy
   S/o. Dorairaj

2. A. Manimozhi
   S/o.K. Angappan .. Petitioners

Vs.

1. The Secretary to Governement,
   Home Department,
   Fort St. George, Chennai 9.

2. The Registrar,
   State Human Rights Commission,
   "Justice Pratap Singh Buildings",
   35, Thiru Vi Ka Salai,
   Royapettah, Chennai 600 014.

3. Karuppaswamy

4. Sadasivam .. Respondents

W.P.No.41191 of 2002 has been filed U/Art.226 of the constitution of India for issuance of writ of certiorari calling for the records of the second respondent in SHRC No.1565/2000/SS dt.25.10.2002 and quash the same.

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For Petitioner : Mr.R. Karthikeyan

For Respondent-1 : Mr.M. Dhandapani, AGP
Respondent-2 : Mr.R. Sundaram
*Respondents 3&4 : Mr.J. Saravanavel for
Mr.P.V.Bakthavatchalam

*incorporated as per the
direction of the Registrar (Judl.)

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O R D E R

This writ petition once again brings out the conduct of men belonging to the Uniformed Services and instead of being a protector and defender of human rights, they themselves are committing human rights violations. Only recently, a Division Bench of this Court vide its decision in W.P.No.47861 of 2006 dated 13.12.2006 in T. Loganathan vs. State Human Rights Commission and another dealt with the issue of human rights and the enforceability of the orders of the State Human Rights Commission [for short, 'SHRC] elaborately and dismissed the writ petition filed by a policeman. Hence, the decisions referred to therein are not reproduced herein. Suffice to say that the SHRC has jurisdiction to deal with the human rights violations and also to direct compensation in any given case.

2. I have heard the arguments of Mr.R.Karthikeyan, learned counsel appearing for the petitioner and Mr.M.Dhandapani, learned Assistant Government Pleader appearing for the first respondent and Mr.R.Sundaram, learned counsel appearing for the second respondent and have perused the records.

3. SHRC, which heard the complaint of the third respondent in S.H.R.C. No.1565 of 2000, vide its order dated 25.10.2002 came to the conclusion that the two writ petitioners, who are Inspector and Sub-Inspector of Police respecitvely, are guilty of committing human rights violations against the third respondent and, therefore, the State Government is liable to pay a sum of Rs.50,000/- each to the respondents 3 and 4 as immediate interim relief for the human rights violations committed by the two writ petitioners. It has further directed that the State Government was at liberty to recover the amounts from the salary and other benefits of the two writ petitioners and also to launch criminal prosecution under the relevant provisions of the Indian Penal Code against the writ petitioners. It is against this order, the present writ petition has been filed.

4. Learned counsel appearing for the writ petitioners states that the procedure adopted by the SHRC in arriving at the conclusion was not proper and there was no material before the Commission to come to such conclusion and by which it ordered compensation with a clause for recovery and also recommendations for launching prosecution was improper. He further submitted that the SHRC has proceeded only on the basis of hearsay and also on assumptions and presumptions and there are no materials before the Commission.

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5. However, the learned counsel appearing for the second respondent submitted that the SHRC was well aware of its jurisdiction and analysed the evidence properly and had made the recommendations in accordance with law and the same does not call for any interference. He further submitted that the conclusion arrived at by SHRC was based upon guidelines made by the Supreme Court reported in AIR 1994 SC 1349 [Jokindar Kumar v. State of U.P.] and AIR 1997 SC 160 [D.K.Basu v. State of U.P.].

6. The third respondent in the present case was the father of Sadasivam, who was wanted in connection with the alleged kidnapping of one Komala by one Sureshbabu. It transpires that Ms.Komala was a major and with full consent, she went out of the house and married one Sureshbabu and on the basis of the complaint given by the Komala's father, the two writ petitioners were in search of couple and in order to find out their whereabouts, the fourth respondent Sadasivam was looked out by the petitioners. In order to pressurize his surrender, the third respondent was arrested by the writ petitioners and kept in the Police Station and was also produced before the Criminal Court in a kidnap case. A bail application was moved by third respondent and that was also strongly opposed by the writ petitioners knowing fully well that there was no evidence against the third and that the eloped couple were major and had full consent for getting married. The fact that the couple surrendered in the nearby Police Station was known to the writ petitioners and despite that, they have not informed the Criminal Court thereby incarcerated the third respondent without any jurisdiction.

7. First of all, there was no ground for arresting the third respondent and keeping him in the Police Station, who had no role to play in the present case, and when he was in the jail, the bail application filed by him was opposed by the writ petitioners inspite of the fact that the couple had surrendered in the Police Station and the same was a clear vendetta on the part of the petitioners which has been brought out by the Human Rights Commission. The second respondent with all the available materials, both oral and documentary, had reached the above said conclusion, which cannot be said to be either perverse or not supported by any evidence.

8. In the above circumstances, I do not find any case to interfere with the order passed by the first respondent SHRC. The writ petition lacks in merits and the same shall stand dismissed. However, there will be no order as to costs. Considering the fact that the petitioners have come to this Court as early as 2002 and the matter has been kept pending for over

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four years, a direction is issued to the first respondent to implement the orders of the SHRC within a period of four weeks from the date of receipt of a copy of this order.

Sd/
Asst.Registrar
9.2.2007

Corrected Order to be issued *
Sd/-
Asst. Registrar
13.4.2007

/true copy/

Sub Asst.Registrar

gri

To

1. The Secretary to the Governement of TN)
Home Department, )
Fort St. George, Chennai 9. )
)Corrected order to
2. The Registrar, )be issued for the
State Human Rights Commission, )order already
"Justice Pratap Singh Buildings", )despatched on 5.3.07
35, Thiru Vi Ka Salai, )
Royapettah, Chennai 600 014. )
)
+1cc to Mr.P.V.Bakthavatchalam, Advocate )
Sr 3641 )
+1cc to Govt. Pleader SR 3753 )

NG (CO)
km/13.4.

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